

Application Serial No. 10/075,489
Amendment dated March 25, 2004
Reply to final office action dated February 2, 2004

Remarks/Arguments

The preceding amendments and following remarks are submitted in response to the Final Official Action of the Examiner mailed February 2, 2004. Claims 1-17 and 22-25 remain pending. Claims 18-21 have been canceled without prejudice as being drawn to a non-elected invention. Reconsideration, examination and allowance of all pending claims are respectfully requested.

In paragraph 1 of the Office Action, the Examiner made a typographical error by indicating the claims 8-21 have been canceled. As the Examiner may recall, and due to a restriction requirement, claims 18-21 were canceled without prejudice.

The undersigned provided a proposed Amendment-After-Final to the Examiner on March 16, 2004 for review. On March 23, 2004, the Examiner called the undersigned and indicated that the proposed Amendment-After-Final would place this application in condition for allowance. This Amendment-After-Final is the same as the proposed Amendment-After-Final except the title on page 1 has been changed to remove the word “Proposed”, and this paragraph has been added. As such, with this Amendment-After-Final, all pending claims are now believed to be in condition for allowance.

In paragraph 2 of the Office Action, the Examiner objected to the drawings under 37 C.F.R. 1.83(a). The Examiner states that the drawings must show each feature of the invention specified in the claims, including a “kitchen appliance for use in food preparation”. A proposed drawing change is including herewith, including a new Figure 53. New Figure 53 is similar to original Figure 50, but shows a toaster, as disclose on page 51, line 7 and page 52, lines 12-15 of

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the original specification. Appropriate amendments to the specification have also been made. No new matter has been added.

In paragraph 9 of the Office Action, the Examiner rejected claims 1-4, 10, 11, 14, 15, 22 and 25 under 35 U.S.C. §102(b) as being anticipated by Koch et al. (U.S. Patent No. 3,612,848). In paragraph 4 of the Office Action, the Examiner rejected claims 5-7 under 35 U.S.C. §103(a) as being unpatentable over Koch et al. in view of Luckiesh (U.S. Patent No. 2,339,085). In paragraph 5 of the Office Action, the Examiner rejected claims 9 and 23 under 35 U.S.C. §103(a) as being unpatentable over Koch et al. In paragraph 6 of the Office Action, the Examiner rejected claim 17 under 35 U.S.C. §103(a) as being unpatentable over Koch et al. in view of Sharpe (U.S. Patent No. 3,028,208).

For the reasons detailed in Applicant's Amendment filed on October 9, 2003, as well as other reasons, Applicant respectfully disagrees with these rejections. However, during a telephone interview with the Examiner on March 12, 2004, the Examiner indicated that he would likely allow the claims as amended above. Many of the claims now recite a counter-top kitchen appliance for use in food preparation (see, for example, claim 1). While objected to claims 8 and 16 do not recite a counter-top kitchen appliance, they have been amended to include the limitations of independent claim 1, and thus are believed to also be in condition for allowance, particularly in view of the Examiner remarks in paragraph 7 of the Office Action. While Applicant is willing to make these amendments to move this case along, Applicant reserves the right to prosecute the non-amended claims as well as other claims in a subsequently filed continuation application.

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In view of the foregoing, Applicant believes that all pending claims 1-17 and 22-25 are now in condition for allowance. Reexamination and reconsideration are respectfully requested. If the Examiner believes it would be beneficial to discuss the application or its examination in any way, please call the undersigned attorney at (612) 359-9348.

Date March 25, 2004

Respectfully submitted,

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